

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEW YORK STATE LOCAL GOVERNMENT
SERVICES FOUNDATION, INC. as
attorney-in-fact for NEW YORK MUNICIPAL
INSURANCE RECIPROCAL,

07 CV 8150

Plaintiffs,

VERIFIED ANSWER

-against-

COUNTY OF PUTNAM, DANIEL STEPHENS,
JEFFREY DESKOVIC and LINDA McGARR,

Defendants.
-----X

S I R S:

Defendant, COUNTY OF PUTNAM, by its attorneys, **Hodges, Walsh & Slater, LLP**, as and for their Verified Answer to plaintiffs' Verified Complaint, upon information and belief, state the following:

THE NATURE OF THIS ACTION

FIRST: Denies each and every allegation contained in paragraph "2" of the Plaintiff's Complaint.

THE PARTIES

SECOND: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "10" of the Plaintiff's Complaint and refers all questions of law to this Court.

JURISDICTION AND VENUE

THIRD: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "11" of the Plaintiff's Complaint and refers all questions of law to this Court.

FOURTH: Denies each and every allegation contained in paragraphs "12", "13", "14" and "15" of the Plaintiff's Complaint.

ANSWERING THE ALLEGED FIRST CAUSE OF ACTION AGAINST COUNTY and STEPHENS

FIFTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "25", "26", "27" and "29" of the Plaintiff's Complaint.

SIXTH: Denies each and every allegation contained in paragraphs "30", "31", "32", "33", "35", "36", "37" and "39" of the Plaintiff's Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

SEVENTH: The allegations in the underlying Complaint filed by Jeffrey Deskovic fall within the scope of the risks undertaken by Intervenor-Plaintiff as consideration for payment of premiums by the County of Putnam.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

EIGHTH: The Intervenor-Plaintiff has defended the underlying action filed by Jeffrey Deskovic with full knowledge of available defenses to coverage and is estopped from asserting that its policy does not cover the claims asserted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

NINTH: Intervenor-Plaintiff accepted tender of the defense of the County of Putnam without reserving its right to disclaim coverage and is estopped from denying coverage or continuing to defendant the County of Putnam.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

TENTH: The Intervenor-Plaintiff has controlled the defense of the County of Putnam in the action filed by plaintiff Jeffrey Deskovic to the prejudice of the County and is estopped from disclaiming coverage as a result of its own laches.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

ELEVENTH: As a result of the undertaking of the defense of the County of Putnam, Intervenor-Plaintiff has caused the County of Putnam to be prejudiced through losing the right to conduct its own defense and as a result Intervenor-Plaintiff is estopped from now disclaiming coverage.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

TWELFTH: Intervenor-Plaintiff continues to have a duty to provide for the defense of the County of Putnam regardless of the validity of the claims of the plaintiff.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

THIRTEENTH: The Complaint of Intervenor-Plaintiff fails to state a cause of action upon which relief may be granted.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

FOURTEENTH: The Court lacks subject matter jurisdiction over the claims asserted by Intervenor-Plaintiff.

WHEREFORE, this answering defendant demands judgment dismissing the Complaint of the plaintiffs, together with costs and disbursements of this action and for such other and further relief as may seem just and proper.

DATED: White Plains, New York
May 29, 2013

Yours, etc.,

HODGES, WALSH & SLATER LLP

By: 

John J. Walsh

Attorneys for Defendant

COUNTY OF PUTNAM

55 Church Street – Suite 211

White Plains, N.Y. 10601

(914) 385-6000

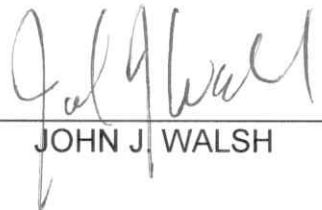
TO: CONGDON, FLAHERTY, O'CALLAGHAN, REID,
DONLON, TRAVIS & FISHLINGER
Attorneys for Intervenor-Plaintiff
New York Municipal Reciprocal
333 Earle Ovington Blvd. – Suite 502
Uniondale, NY 11533
(516) 542-5900

STATE OF NEW YORK)
 SS.:
COUNTY OF WESTCHESTER)

I, the undersigned, am an attorney admitted to practice in the Courts of the State of New York, and say that : I am the attorney of record for the defendant County of Putnam; I have read the annexed Verified Answer, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters therein not stated upon knowledge, is based upon the following: material in file, information, documents contained in said file.

The reason I make this affirmation instead of the defendant is because the defendant resides outside of the county in which our office is located.

DATED: White Plains, New York
 May 29, 2013



JOHN J. WALSH


VIA FIRST CLASS MAIL

STATE OF NEW YORK)
 SS.:)
COUNTY OF WESTCHESTER)

Kim J. Lambertus, being duly sworn, deposes and says:

I am employed by the law firm of HODGES, WALSH & SLATER, LLP, counsel for Defendant in the above action and I am over the age of 18 years and I am not a party to this action. On May 31 2013 I served a true copy of the annexed Verified Answer in the following manner: by mailing same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York addressed to the last known address of all attorneys in this action as indicated below:

TO: CONGDON, FLAHERTY, O'CALLAGHAN, REID,
DONLON, TRAVIS & FISHLINGER
Attorneys for Intervenor-Plaintiff
New York Municipal Reciprocal
333 Earle Ovington Blvd. – Suite 502
Uniondale, NY 11533



Kim J. Lambertus

Sworn to before me this
31ST Day of May, 2013



Notary Public

JOHN J. WALSH
Notary Public, State of New York
No. 4827450
Qualified in ORANGE County 14
Commission Expires May 31, 20